

Message Text

LIMITED OFFICIAL USE

PAGE 01 STATE 211842

43

ORIGIN L-03

INFO OCT-01 AF-06 EUR-12 ISO-00 SNM-02 JUSE-00 SCA-01 /025 R

DRAFTED BY L/SFP:LGFIELDS, JR:NMC

APPROVED BY S/NM:SBVANCE

L/M - K. E. MALMBORG

EUR/WE - E. J. BEIGEL

JUSTICE: MR. SITVER & MR. SCHLAM

(AUSA, EDNY)

----- 122591

R 052322Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY PARIS

INFO AMEMBASSY DAKAR

LIMITED OFFICIAL USE STATE 211842

E.O. 11652: N/A

TAGS:CPRS, PFOR, SNAR, AF

SUBJECT: RETURN OF DOMINIQUE ORSINI TO UNITED STATES

REF: PARIS 22745

1. DEPT ASSUMES THAT DOCUMENTATION GOS SUBMITTED TO GOF CITED REFTTEL CONCERNING ORSINI CASE RELATES TO HEARING IN AND DECISION OF CHAMBRE D'ACCUSATION, WHICH FREED ORSINI ON AUGUST 30. ASST. LEGAL ADVISER FIELDS (IN DAKAR AT THE TIME) UNDERSTOOD THAT ORSINI'S ATTORNEY CHALLENGED THE PROVISIONAL ARREST BY GOS ON TWO GROUNDS: E.G., THE FAILURE OF USG TO MAKE FORMAL (WRITTEN) REQUEST OF GOS FOR PROVISIONAL ARREST AND THE FACT THAT SUCH ARREST WAS EFFECTED IN A "TRANSIT AREA IN THE DAKAR AIRPORT." IN MEETING AT SENEGALESE MINISTRY OF JUSTICE ON AUGUST 29, FIELDS POINTED OUT THAT LATTER ARGUMENT LACKED ANY PREVAILING ACCEPTANCE IN CONTEMPORARY INTERNATIONAL LAW. HE CITED FACT THAT MOST COUNTRIES, AMONG THEM FRANCE, GERMANY, LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 STATE 211842

U.S.A., JAPAN, TO NAME A FEW, HAVE SUSTAINED ARRESTS IN

SO-CALLED "TRANSIT AREAS" OF INTERNATIONAL AIRPORTS. SUCH AREAS, HE POINTED OUT, ARE LEGAL FICTIONS FOR PURPOSES OF INTERNAL IMMIGRATION AND TAX (CUSTOMS) LAWS OR REGULATIONS, BUT ARE CLEARLY TERRITORIAL FOR ANY OTHER PURPOSES,

ESPECIALLY CRIMINAL JURISDICTION. AS TO THE FORMALITY OF THE U.S. REQUEST, THIS IS, OF COURSE, A MATTER WITHIN THE COMPETENCE OF THE SENEGALESE AUTHORITIES TO DETERMINE. AT THE CITED MEETING WITH SENEGALESE JUSTICE OFFICIALS, A NOTE VERBALE FORMALLY REQUESTING SENEGALESE PROVISIONAL ARREST WAS DELIVERED WITH WRITTEN ENDORSEMENT OF SENEGALESE MINISTRY OF FOREIGN AFFAIRS. SAID NOTE ALSO TRANSMITTED THE FORMAL EXTRADITION REQUEST WHICH HAD BEEN PREPARED BY U.S. ATTORNEY IN NEW YORK, CERTIFIED BY U.S. DISTRICT COURT FOR EASTERN DISTRICT OF NEW YORK, AUTHENTICATED BY BOTH THE DEPARTMENTS OF JUSTICE AND STATE AND HAND CARRIED TO DAKAR BY FIELDS. IN VIEW OF FIELDS THE SECOND ARREST (EFFECTED ON SATURDAY, AUGUST 30), MADE INDISPUTABLY ON SENEGALESE SOIL (IMMEDIATELY OUTSIDE OF THE COURTHOUSE) AND CLEARLY PURSUANT TO THE FORMAL REQUEST OF USG, SHOULD SATISFY SENEGALESE LAW. MOREOVER, GOS ACTION IN TURNING OVER ORSINI (WHETHER AS THE RESULT OF EXTRADITION OR EXPULSION) WAS A PROPER EXERCISE OF SOVEREIGNTY BY GOS IN FURTHERANCE OF INTERNATIONAL COOPERATION IN LAW ENFORCEMENT AND PREVENTION OF NARCOTICS TRAFFICKING.

2. ACCORDING TO INTERPOL WASHINGTON, FRANCOIS LEMOUEL OF CNO IN FRANCE, COMMUNICATED TO GOS THROUGH INTERPOL CHANNEL THAT FRENCH AUTHORITIES CONSIDERED "THAT JUSTICE WOULD BE BEST SERVED IF ORSINI WERE TURNED OVER TO U.S. AUTHORITIES FOR PROSECUTION." FYI: WHILE BETTER INTERNAL COMMUNICATION WITHIN GOF OBVIOUSLY MIGHT HAVE AVERTED MOUTON-BRADY'S CONCERN, GOF SHOULD TAKE INTO ACCOUNT THE APPARENT SPECTRUM OF VIEWS IN DEVELOPING ITS OFFICIAL POSITION ON THE ORSINI AFFAIR. THERE ARE, OF COURSE, PAROCHIAL, OFTEN DIVERGENT, CONCERNS WITHIN GOVERNMENTS ON MATTERS SUCH AS THIS; HOWEVER, DEPT HOPES THAT ANY FRENCH DEMARCHE TO GOS WILL BE, AS ORIGINALLY REPORTED, PRO FORMA IN NATURE. END FYI.
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 STATE 211842

3. WITH REGARD TO FRENCH VIEW THAT USG REQUEST "LOOKED INCOMPLETE" IN THAT "THERE WAS NO EVIDENCE ORSINI HAD COMMITTED CRIME IN U.S., ONLY IN ARGENTINA" (PARAS 2 AND 3 REFTEL), THE LEGAL BASIS FOR ORSINI'S PROSECUTION WILL BE HELPFUL BACKGROUND FOR EMBASSY TO RESPOND TO FURTHER INQUIRIES BY GOF OR TO CLARIFY ANY EXISTING MISAPPREHENSIONS. ORSINI WAS INDICTED BY THE GRAND JURY OF THE

U.S. DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK
ON JULY 24, 1974 FOR CONSPIRING TO VIOLATE SECTIONS 173
AND 174 OF TITLE 21 OF THE UNITED STATES CODE. SECTION

173 MAKES IT "UNLAWFUL TO IMPORT AND BRING ANY NARCOTIC
DRUG INTO THE UNITED STATES" EXCEPT FOR LEGITIMATE
MEDICAL USES, AND SECTION 174 PRESCRIBES THE PENALTY FOR
"WHOEVER FRAUDULENTLY OR KNOWINGLY IMPORTS OR BRINGS ANY
NARCOTIC DRUG INTO THE UNITED STATES, OR ANY TERRITORY
UNDER ITS CONTROL OR JURISDICTION, CONTRARY TO LAW, OR
RECEIVES, CONCEALS, BUYS, SELLS, OR IN ANY MANNER
FACILITATES THE TRANSPORTATION, CONCEALMENT, OR SALE
OF ANY SUCH NARCOTIC DRUG AFTER BEING IMPORTED OR BROUGHT
IN, KNOWING THE SAME TO HAVE BEEN IMPORTED OR BROUGHT
INTO THE UNITED STATES CONTRARY TO LAW, OR CONSPIRES
TO COMMIT ANY OF SUCH ACTS IN VIOLATION OF THE LAWS OF
THE UNITED STATES." THE PENALTY ESTABLISHED IS IMPRISON-
MENT FOR "NOT LESS THAN FIVE OR MORE THAN TWENTY YEARS."
A FINE OF NOT MORE THAN \$20,000 MAY BE ALSO IMPOSED.

(NOTE: SECTIONS 173 AND 174 WERE REPEALED BY P.L. 91-513;
HOWEVER, THAT LAW SAVED THE APPLICATION OF THESE SECTIONS
FOR ANY VIOLATIONS WHICH OCCURRED PRIOR TO THE EFFECTIVE
DATE OF SUCCESSOR PROVISIONS. ACCORDINGLY, THE INDICT-
MENT IS VALID EVEN THOUGH IT IS FOR VIOLATION OF U.S.
CODE PROVISIONS NOW REPEALED. P.L. 91-513, WHILE
REPEALING SECTIONS 173 AND 174, ESTABLISHED A NEW
SECTION (21 U.S.C. 963) TO COVER ATTEMPTED VIOLATIONS
AND CONSPIRACIES). UNDER U.S. LAW, SO LONG AS ONE OF
THE OVERT ACTS CHARGED IN THE INDICTMENT WAS COMMITTED
IN THE UNITED STATES BY ONE OR MORE OF THE CO-CONSPIRATORS,
THE UNITED STATES HAS JURISDICTION TO TRY A CO-CONSPIRA-
TOR FOR THE CONSPIRACY ALTHOUGH HE MAY NEVER HAVE BEEN
IN THE UNITED STATES.

LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 STATE 211842

4. THERE IS EVIDENCE AVAILABLE TO U.S. ATTORNEY TO
ESTABLISH ORSINI'S PARTICIPATION IN THE CONSPIRACY
ALLEGED. SEVERAL CO-CONSPIRATORS ARE IN U.S. CUSTODY,
WILLING TO TESTIFY AGAINST ORSINI AND THERE IS COR-
ROBORATIVE EVIDENCE TO SUPPORT SUCH TESTIMONY. U.S. IS
INDEED SATISFIED THAT ITS CASE AGAINST ORSINI IS A VIABLE
ONE AND THAT, ACCORDINGLY, THERE WAS PROBABLE CAUSE TO
SEEK HIS EXTRADITION OR EXPULSION TO THE U.S. FOR TRIAL.

5. COPIES OF COMPLETE EXTRADITION PACKAGE (IN FRENCH
LANGUAGE) PROVIDED TO GOS IS AVAILABLE IN DEPT. SHOULD
EMBASSY FEEL THAT SUCH DOCUMENTS WOULD BE HELPFUL FOR
ITS FULLER UNDERSTANDING OF CASE OR ESSENTIAL TO ALLAY
FRENCH CONCERNS, IT CAN BE POUCHED. IT IS NOT USUAL

THAT SUCH DOCUMENTS ARE GIVEN TO THIRD PARTY COUNTRIES;
HOWEVER, IF IN BEST JUDGMENT OF EMBASSY, SUCH COULD BE
PERSUASIVE TO GOF IN TEMPERING ITS ATTITUDE TOWARD
GOS, DEPT WILL AUTHORIZE THEIR PROVISION TO GOF ON
CONFIDENTIAL AND INFORMATIONAL BASIS.

ROBINSON

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DRUG CONTROL, EXPULSION, EXTRADITION
Control Number: n/a
Copy: SINGLE
Draft Date: 05 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE211842
Document Source: CORE
Document Unique ID: 00
Drafter: LGFIELD, JR:NMC
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750309-0250
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750978/aaaacrdh.tel
Line Count: 177
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 75 PARIS 22745
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 21 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <21 MAY 2003 by BoyleJA>; APPROVED <03 OCT 2003 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: RETURN OF DOMINIQUE ORSINI TO UNITED STATES
TAGS: CPRS, PFOR, SNAR, AF, (ORSINI, DOMINIQUE)
To: PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006